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November 28, 2005

VIA ELECTRONIC FILING

Marlene H. Dortch, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

**Re: VoIP E911 Compliance Report (November 28, 2005)
deltathree, Inc.; WC Docket No. 05-196**

Dear Ms. Dortch:

deltathree, Inc. ("deltathree" or the "Company"), pursuant to the Commission's *VoIP E911 Order*¹ concerning the enhanced 911 ("E911") service requirements and conditions applicable to interconnected Voice over Internet Protocol ("VoIP") service providers, submits this Compliance Report ("Report") to advise the Commission of the status of deltathree's efforts to comply with the Commission's VoIP E911 Rules.²

deltathree is a provider of Internet telephony solutions to consumers, resellers and service providers worldwide. It offers VoIP services including broadband phone, and PC to phone through its VoIP consumer division, iConnectHere ("ICH"). deltathree's VoIP service is portable; so long as a deltathree customer has access to broadband Internet access, the customer can make use of the service anywhere in the United States or the world. deltathree's customer base is global in nature, and over 70% of its revenues are generated from customers located

¹ *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, First Report and Order and Notice of Proposed Rulemaking 20 FCC Rcd. 10245 (2005) ("*VoIP E911 Order*").

² Pursuant to the Commission's prior Public Notices, deltathree filed three status reports concerning the Company's efforts to notify its customers of the limitations associated with the Company's VoIP 911 service, and to obtain affirmative acknowledgments from those subscribers stating that they fully understand those limitations. These reports were filed in the above-referenced docket on August 10, September 1, and September 22, 2005.

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outside of the United States. The information provided in this letter is limited to deltathree's ICH interconnected VoIP customers having a registered location, within the United States.

As required by the Commission's rules, as well as the Public Notice issued by the Enforcement Bureau on November 7, 2005³ (the "Public Notice"), this Report details deltathree's efforts to provide E911 service to customers in compliance with Commission Rules 9.5(b) and (c), and to comply with registered location requirements of Commission Rule 9.5(d). Pursuant to the information requested by the Enforcement Bureau in the Public Notice, the Company provides as follows:

1) A quantification, on a percentage basis, of the number of subscribers to whom the Company is able to provide 911 service in compliance with the rules established in the *VoIP E911 Order*.

deltathree does not have E911 service available as of the date of this filing. Upon deltathree's adoption of the E911 solution provided by Intrado, Inc. ("Intrado" or "Third Party Provider") which is expected to occur in mid-December, 2005 (the "Anticipated Roll-Out Date"), deltathree expects to be able to provide VoIP E911 service in compliance with the *VoIP E911 Order* to approximately 42% of its existing interconnected VoIP subscribers, based on Intrado's VoIP E911 service footprint. If Intrado maintains its currently projected deployment schedule, an estimated 65% of deltathree's Customers will have E911 service by March 30, 2006 and 80% of deltathree's Customers will be covered by June 30, 2006. deltathree expects that the remainder of its Customers will obtain coverage by the end of the requested nine-month extension.

2) A detailed statement as to whether the Company is transmitting, as specified in Paragraph 42 of the *VoIP 911 Order*, "all 911 calls to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority utilizing the Selective Router, the trunk line(s) between the Selective Router and the PSAP, and such other elements of the Wireline E911 Network as are necessary in those areas where Selective Routers are utilized."

As detailed in response to question 1, after the Anticipated Roll Out Date, for approximately 58% of deltathree's customers deltathree's Third Party Provider will not be able to transmit 911 calls to the appropriate PSAP, designated statewide default answering point, or appropriate local emergency authority utilizing the selective router, the trunk lines between the selective router and the PSAP, and such other elements of the Wireline E911 Network as are necessary in those areas where selective routers are utilized. On the Anticipated Roll-Out Date, deltathree will be able to transmit all 911 calls in compliance with the *VoIP E911 Order* for all

³ Enforcement Bureau Outlines Requirements of November 28, 2005 Interconnected Voice Over Internet Protocol 911 Compliance Letters, WC Docket Nos. 04-36 and 05-196, Public Notice, DA 05-2945 (rel. Nov. 7, 2005).

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customers located in areas where Intrado's VoIP E911 solution is available. Please find attached as Exhibit A, a map that illustrates both the current and future areas where Intrado will offer VoIP E911 services.

3) If the Company is not transmitting all 911 calls to the correct answering point in areas where Selective Routers are utilized, a detailed explanation of why not.

To the best of our knowledge and pursuant to representations made to us by our Third Party Provider, deltathree will be transmitting all 911 calls after the Anticipated Roll-Out Date to the correct answering point, based on the registered location supplied by the customer, in areas where selective routers are utilized.

4) The number of Selective Routers to which the Company has interconnected, directly or indirectly, as of November 28, 2005.

As explained in response to question 2, deltathree relies on its Third Party Provider to provide its VoIP E911 solution. deltathree does not interconnect directly with any selective routers, instead its Third Party Provider provides a complete E911 solution. As of November 28, 2005, Intrado reported to deltathree that Intrado is interconnected to 154 Selective Routers, either directly or indirectly.

5) A detailed statement as to whether the Company is transmitting via the Wireline E911 Network the 911 caller's ANI and Registered Location to all answering points that are capable of receiving and processing this information.

deltathree has long sought a means to provide E911 service to its customers. Because deltathree's service is offered over the public Internet, however, deltathree cannot practicably limit the geographic locations from which its customers might use the service; therefore, a complete nationwide solution is required for E911 coverage. This poses a much greater challenge for deltathree than is faced by traditional telecommunications carriers whose networks have a more defined geographic footprint. Even before the issuance of the *VoIP E911 Order*, deltathree had investigated and determined that it would be logistically impossible for deltathree to contact, to negotiate, and to contract with all the necessary parties to implement and to manage a nationwide network-based E911 solution. As a result, deltathree has contracted with Intrado to provide E911 services.

By way of background, since the issuance of the *VoIP E911 Order*, deltathree decided to explore, to negotiate and to work with more than one E911 third party provider because of the extremely limited geographic area covered collectively by all third-party solution providers.⁴

⁴ In fact, deltathree is unaware of any VoIP E911 solution that covers the entire *continental* United States as of the date of this letter, let alone a solution that would include all the United States' possessions and territories.

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Thus, deltathree evaluated and worked with a number of third-party VoIP E911 solution providers and, at first, expected to use the services of more than one provider due to the geographic limits associated with each of the proposed solutions. Prior to entering into a contract with Intrado, deltathree decided to work with another leading provider of VoIP E911 solutions. However, as the November 28, 2005, deadline approached, it became clear that the third-party solution provider deltathree originally was working with did not offer an adequate E911 solution compatible with either nomadic VoIP services or VoIP services that allow for the assignment of non-native telephone numbers – both functionalities are part of the deltathree VoIP service offering. Accordingly, deltathree lost valuable time in deploying a VoIP E911 solution to its customers.

After months of discussion, deltathree entered into an agreement with Intrado on October 18, 2005 to provide an E911 solution by the November 28 deadline. In connection with the Intrado E911 solution, deltathree was required to order voice and data circuits after consummation of its agreement with Intrado. The provisioning of such circuits to deltathree is taking 6 to 8 weeks. Furthermore, with respect to data circuits, deltathree was further delayed because Intrado was required to order such circuits and there was an unforeseen ordering backlog due to the unanticipated number of Intrado customers. Therefore, based on the foregoing, deltathree will have E911 services available only as of the Anticipated Roll Out Date.

The Intrado service provides 911 service using direct call routing to PSAPs and includes the use of 10-digit telephone numbers approved by the relevant PSAP. Intrado works with PSAPs to determine the appropriate telephone numbers for routing 911 calls. Although this service provides a number of solutions in the provision of E911 services, it is not a complete solution given the lack of nationwide coverage by Intrado's VoIP E911 network solution.

Furthermore, Intrado has informed us that there are unique deployment circumstances in areas of the US and Puerto Rico that operate off E9-1-1 Selective Routers, but will not meet the full FCC mandate. Intrado is currently aware of four (4) States and a Territory that will have native Selective Routing functionality but will only provide Automatic Number Identification (ANI) only service to the PSAP. The following information explains the circumstances within these areas:

New Jersey - In the State of New Jersey Intrado has gained permission from the State to deploy a voice only service which includes the call taker receiving ANI on the VoIP 911 caller. The State ALI system is not capable of full dynamic ALI updates and will require an upgrade. New Jersey represents 3% of the total US population.

Ohio - To date, Ohio has not granted permission to Intrado to deploy a voice only solution. The State ALI system is not capable of full dynamic ALI update. Ohio represents 4% of the total US population.

Hawaii - To date, Hawaii has not granted permission to Intrado to deploy a voice only solution. The ALI systems are not capable of full dynamic ALI update. Hawaii represents 5% of the total US population

Puerto Rico - To date, Puerto Rico has not granted permission to Intrado to deploy a voice only solution. The ALI systems are not capable of full dynamic ALI update. Puerto Rico represents 3% of the total US population.

Deploying a ubiquitous VoIP E911 solution within 120 days is an incredibly difficult task. Adding additional network interfaces, database management systems, and other network systems to allow for the provision of VoIP E911 is costly, time consuming, and administratively burdensome. Some network providers are wary of contracting to terminate E911 calls from telephone numbers that are not directly provisioned by them. Other network providers are willing to provide 911 services for third-party provided telephone numbers, but have many operational, commercial, testing and technical issues that need to be resolved. Such issues outside of deltathree's control have been the most difficult to manage. Specifically, deltathree has no alternative but to wait for Intrado to expand its VoIP E911 coverage area, but understands the complexities associated with this task. For example, PSAP testing requires coordination from numerous entities, and can be a time-consuming process requiring the coordination of numerous independent entities.

Another complicating factor is that Intrado is dependant on the efforts of third parties to deploy an E911 solution, including RBOCs and PSAPs. Circumstances beyond Intrado's control impact deltathree's ability to deploy an E911 solution to its customers. For example, in order to deploy a VoIP E911 solution for nomadic VoIP services, Intrado requires access to pseudo-ANI ("p-ANI"). As described above and in multiple *ex parte* filings with the Commission,⁵ the lack of the appointment of an interim Routing Number Authority has made it impossible for Intrado to access p-ANI in certain areas of the country, impeding the deployment of a VoIP E911 solution. Also, Intrado reports that in certain areas, PSAPs are either declining or being advised to decline entering into agreements with VoIP providers due to the lack of legislation protecting VoIP providers and PSAPs from any liability that may result from mistakes that may arise in the routing or handling of 911 calls. As the Commission is aware, wireline and wireless carriers enjoy legal protection that insulates them from liability should emergency calls be mishandled. Neither Intrado nor deltathree have the ability to resolve these issues.

⁵ See, e.g., *Ex Parte* Letter from Robert C. Atkinson, NANC Chair to Thomas Navin, Chief Wireline Competition Bureau, FCC (filed Sept. 8, 2005); *Ex Parte* Letter from David F. Jones, President, National Emergency Number Association, to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36 & 05-196 (filed Nov. 4, 2005); *Ex Parte* Letter from Tom Goode, Associate General Counsel, Alliance for Telecommunications Solutions', to Marlene H. Dortch, Secretary, FCC, WC Docket No. 04-36 & 05-196 (filed Nov. 2, 2005).

The Commission also recognized in the *VoIP E911 Order* that the timeframe for requiring the deployment of an E911 solution was “aggressive.”⁶ In fact, deployment of an E911 solution for a new technology within 120-days is without precedent. VoIP providers, third-party solution providers, VoIP positioning companies, state and local E911 officials, and RBOCs are faced with unique issues to resolve. Additionally, there is no standard in place for the delivery of VoIP E911 calls.⁷ Further, each RBOC has demonstrated a different level of cooperation in deploying a VoIP E911 solution and has adopted different implementation procedures. The 120-day implementation timeframe has not allowed enough time for the industry to resolve all of these disparate issues in order to develop a comprehensive solution. Given the novel issues that arise in deploying a VoIP E911 solution, coupled with the 120-day timeframe, it was simply not possible for the industry to establish a comprehensive VoIP E911 solution.

6) The percentage of how many answering points within the Company’s service area are capable of receiving and processing ANI and Registered Location information that the provider transmits.

deltathree does not have access to the information necessary to respond to this question. Also, as explained in response to question 5, deltathree’s service area is potentially the entire United States, indeed the world, as the service is available from any location where a customer can obtain broadband Internet access. Pursuant to correspondence with Intrado, deltathree understands that 93% of the U.S. population is currently served by PSAPs operating off an E911 Selective Router. Please find attached as Exhibit B a map provided by Intrado that illustrates the PSAPs within the United States that are not served by a Selective Router. While the areas not served by a PSAP operating off an E911 Selective Router are not included within the *VoIP E911 Order* and are not required for compliance, Intrado is actively contacting these areas to determine technical options for VoIP E911 native call delivery.

7) The percentage of subscribers whose ANI and Registered Location are being transmitted to answering points that are capable of receiving and processing this information

deltathree lacks information regarding the percentage of PSAPs able to receive and process ANI and Registered Location information. However, through deltathree’s discussions with Intrado, it is deltathree’s belief that deltathree will be transmitting ANI and Registered Location information on the Anticipated Roll Out Date, through its Third Party Provider, for 42% of deltathree’s customers.

⁶ *VoIP E911 Order*, ¶ 37.

⁷ See *IP-Enabled Services, E911 Requirements for IP-Enabled Service Providers*, Reply Comments of NENA, WC Docket Nos. 04-36 & 05-196 (filed Sept. 12, 2005) (stating that NENA was still in the process of developing the standard, and has sought industry comments on a preliminary proposal).

- 8) **If the Company is not transmitting the 911 caller's ANI and Registered Location to all answering points that are capable of receiving and processing this information, a detailed explanation why not.**

Please refer to deltathree's response to question 5 and 6.

- 9) **To the extent the Company has not achieved full 911 compliance with the requirements of the *VoIP 911 Order* in all areas of the country by November 28, 2005, the Company should describe in detail, either in narrative form or by map, the areas of the country, on an MSA basis, where it is in full compliance and those in which it is not.**

Intrado is working on nationwide native VoIP E911 delivery in accordance with the *VoIP E911 Order*. The initial PSAP deployments are targeted in major metropolitan areas throughout the U.S. based on Intrado's customer subscriber base priorities. Exhibit A, "Major Market Deployment Map", which corresponds with MSAs, identifies regions that have connectivity to at least one Selective Router, ALI steering capabilities; ANI and the ability to populate ALI. According to the map provided by Intrado, there will be a phased deployment with some areas E911 capable by November 28, 2005, others March 31, 2006 and additional areas by June 30, 2006. However, this estimate is predicated on the fact that Intrado's estimate of full E911 coverage will be in place by June 2006 for at least one Selective Router per county (where Selective Routers are utilized). As such, it is impossible for deltathree to determine whether full coverage will be reached by June 2006, or whether certain customers may still be without E911 service in counties with two or more Selective Routers where Intrado has not interconnected with all available Selective Routers in those areas.

- 10) **If not in full compliance, the Company's plans for coming into full compliance with the requirements of the *Order*, including its anticipated timeframe for such compliance.**

As noted above, deltathree's plan for compliance necessarily relies on the ability of Intrado to meet its deployment targets. Furthermore, as previously described, deltathree attempted to be in full compliance by working with three potential E911 providers.

Intrado's projected timeframes for full compliance includes factors outside of Intrado's control. Specifically, Intrado's timeframes may or may not be met based on the level of cooperation of PSAPs, RBOCs and state and local agencies involved in the deployment of E911 services. Further, access to p-ANI, testing and deploying solutions reliant on p-ANI depend on the activities by this Commission and the entities appointed to be responsible for assigning these resources. deltathree cannot predict with certainty as to when it will have a VoIP E911 solution in place for all of deltathree's customers but based on the information currently available to deltathree from Intrado and included in this filing as Exhibit A, much of the country will have VoIP E911 solution in place subject to the limitations identified in response to question 9.

- 11) A detailed description of all actions the Company has taken to obtain each existing subscriber's current Registered Location and each new subscriber's initial Registered Location (including, but not limited to, relevant dates and methods of contact with subscribers and a quantification, on a percentage basis, of the number of subscribers from whom the Company has obtained the Registered Location).**

deltathree has taken several steps to obtain Registered Location information from its interconnected VoIP customers. deltathree has completed upgrades to its website that allows customers to provide and update their Registered Location Information with the Company. This system is also used for billing, notification and affirmative acknowledgement procedures, and other account status information. Further, the Company has implemented a signup procedure that captures customer location information that is used as Registered Location information by the Company and its vendors. deltathree believes that it has obtained Registered Location information on approximately 60% of its customer through these systems and procedures.

deltathree engaged in the following activities to obtain Registered Location information from its subscribers. On or about October 10, 2005, deltathree revised and updated its website to require all interconnected customers to provide their E911 service address and, as part of this process, included a separate webpage for E911 service address information. Furthermore, on or about October 10, 2005, deltathree created an alert web page that required existing customers to provide their service address prior to logging into and having access to their account and member center web pages. Existing customers did not have access to their account information until after completing this service address information.

As part of the Intrado solution, deltathree will have access to the Intrado validation and update interface ("VUI") that enables near real-time deliver of the deltathree new user address information or user submitted address update information. deltathree will be integrating the VUI into its existing provisioning systems to ensure seamless delivery of acquired registration location information to the Intrado system.

- 12) A detailed description of the method(s) the Company has offered its subscribers to update their Registered Locations. This information should include a statement as to whether the Company is offering its subscribers at least one option for updating their Registered Location that permits them to use the same equipment that they use to access their interconnected VoIP service.**

As noted above, the Company has updated its website and has provided customers with the ability to update their Registered Location information from any location where they have access to an Internet connection. Further, deltathree's customers can provide updated address information by contacting deltathree's customer service support staff.

The E911 solution from Intrado provides deltathree interconnected VoIP customers with a real-time provisioning interface to provision and register subscriber location data to Intrado to

ensure the proper address and call back number is delivered to the appropriate PSAP at the time of an E911 call. Intrado's real-time provisioning process enabled by VUI includes a geocoding process as well as management of Master Street Address Guide (MSAG) validation at the time of provisioning. deltathree's customers can utilize our web portal or a our service center by phone to enable the near real-time update to Intrado.

At the time of the E911 call, Intrado uses deltathree's provisioned information to associate the customer provided Registered Location assigned during provisioning with the wireline PSAP boundaries maintained by Intrado to determine appropriate PSAP for delivery of the MSAG Valid address and call back number of the caller.

13) A detailed description of any technical solutions the Company is implementing or has implemented to ensure that subscribers have access to 911 service whenever they use their service nomadically.

deltathree will not have a nomadic solution in place if the customer takes the VoIP service to a location in some markets within the top 20 MSAs and virtually any location outside of the top 20 MSAs in the continental United States. deltathree's capability to provide VoIP E911 service is limited to Intrado's service footprint. deltathree is unaware of any third party provider that is offering a complete solution that will cover the entire continental United States nor is the company aware of any solution that would include Alaska, Hawaii, the territories and possessions. As noted above, deltathree subscribers have the ability to update their Registered Location information with the Company. If they provide a new Registered Location within deltathree's VoIP E911 footprint, they will have access to E911 functionality in compliance with the *VoIP E911 Order*. However, if a customer provides a Registered Location that is outside of deltathree's VoIP E911 footprint, the Company will suspend VoIP service to that customer.

In general, deltathree's Third Party Provider is able to route VoIP emergency calls from their VoIP network to the Intrado Network or alternative third party network for delivery to the appropriate Selective Router (so long as Intrado has connectivity to such Selective Router) and then on to the geographically appropriate PSAP via the native 9-1-1 infrastructure. The E911 services provide a "native" 9-1-1 solution for routing VoIP 9-1-1 calls from both in-region and out-of-region telephone numbers to the geographically appropriate PSAP. Intrado enables full support of nomadic usage of VoIP provided the user updates their address information upon arrival into a new location. Through Intrado's address validation and update interface the E911 solution will permit near real-time provisioning (geocoding and MSAG Validation) of the newly provisioned address and make available (assuming no errors) that user's information for delivery to the PSAP within approximately 15 minutes of receipt.

Intrado recognizes the need for removing the user interaction and self-provisioning component of the solution. To that end, Intrado is actively working and trialing a number of location determination technologies, which will be supported by Intrado and the Intrado provisioning interface.

- 14) A description of any automatic detection mechanism that enables the Company to identify when a customer may have moved his or her interconnected VoIP service to a new location and ensure that the customer continues to receive 911 service even when using the interconnected VoIP service nomadically.**

deltathree notes that the *VoIP E911 Order* specifically states that there is no requirement that VoIP providers provide an automatic detection mechanism to enable the providers to identify when a customer may have moved to a new location.⁸ Thus, although the *Public Notice* refers to plans submitted by AT&T, MCI, and Verizon claiming that those companies are developing such automatic detection mechanisms, deltathree has no plans at this time to implement such a capability for ICH. deltathree is, however, reviewing the AT&T Licensing Agreement and considering other solutions that would provide the Company information concerning customer location. Although deltathree has significant concerns regarding the AT&T Heartbeat proposal, the Company is reviewing these and other technologies, and will actively work towards implementing a solution that the Company and the industry determines is in the best interest of public safety.

Respectfully submitted,

/s/ Eugene Serban

Name: Eugene Serban

Title: Corporate Counsel of
deltathree, Inc.

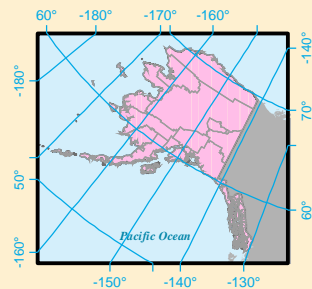
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Janice Myles (FCC)
Best Copy and Printing, Inc.

⁸ *VoIP E911 Order*, ¶ 46 & n.146.

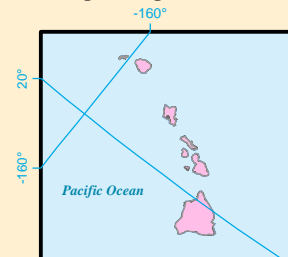
Exhibit A

Intrado Major Market Deployment Map

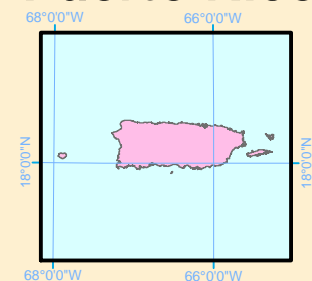
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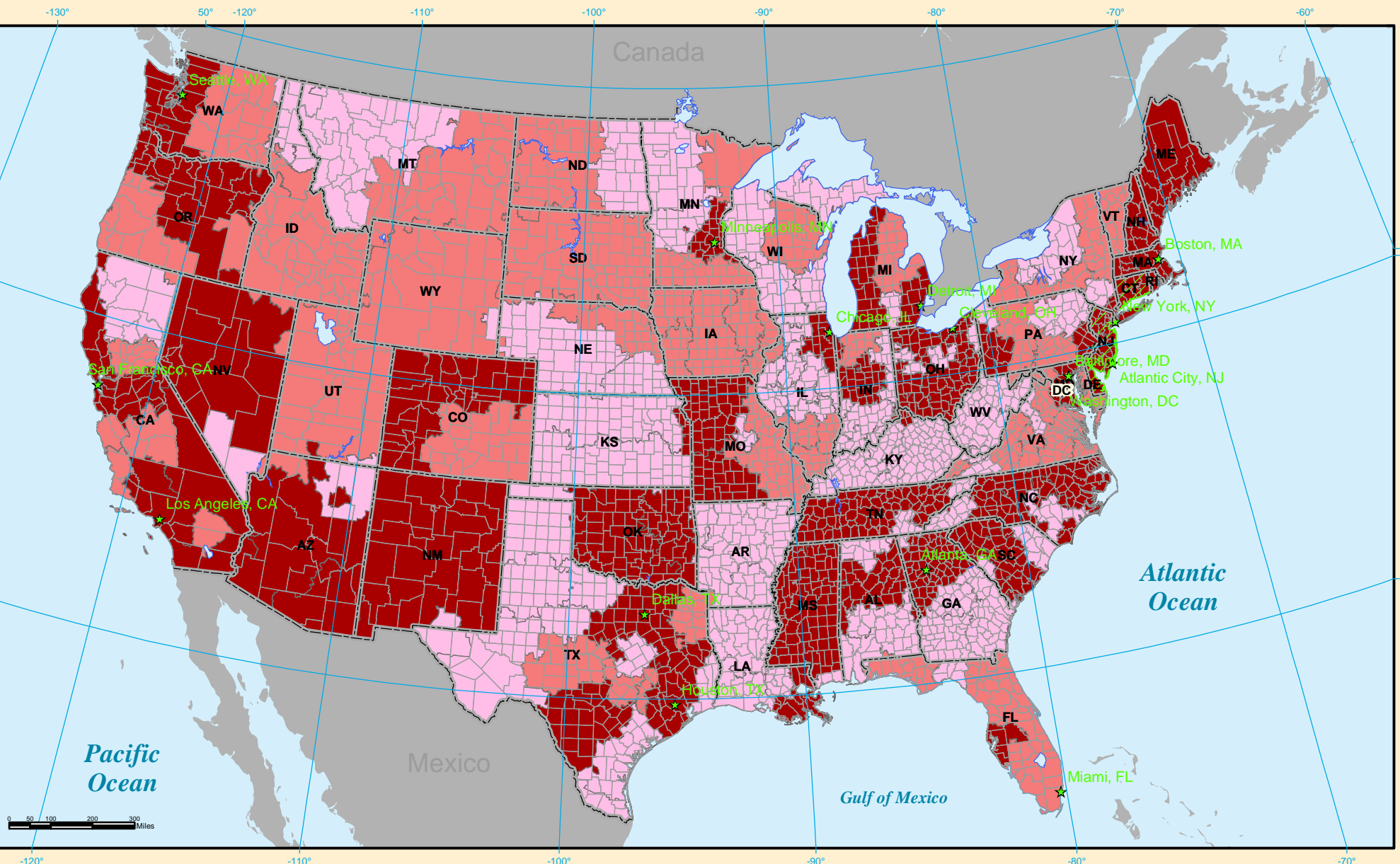


Puerto Rico



Legend

- Planned for 11/28/2005
- Planned for 3/31/2006
- Planned for 6/30/2006
- County Boundary
- or Top 20 MSAs
- Lakes



Intrado Major Market Rollout Schedule

Albers Projection
Central Meridian: -96
1st Std Parallel: 20
2nd Std Parallel: 40
Latitude of Origin: 40

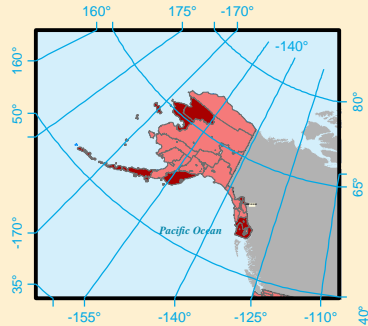
Intrado™
Informed Response.™

Intrado
WOS GIS Operations Team
Date: November 2005
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Created in ArcGIS 8 using ArcMap

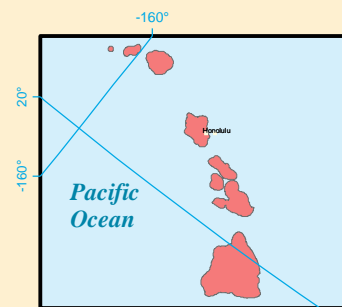
Exhibit B

Intrado Basic PSAP Map

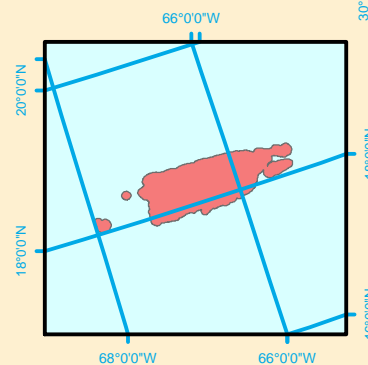
Alaska



Hawaii

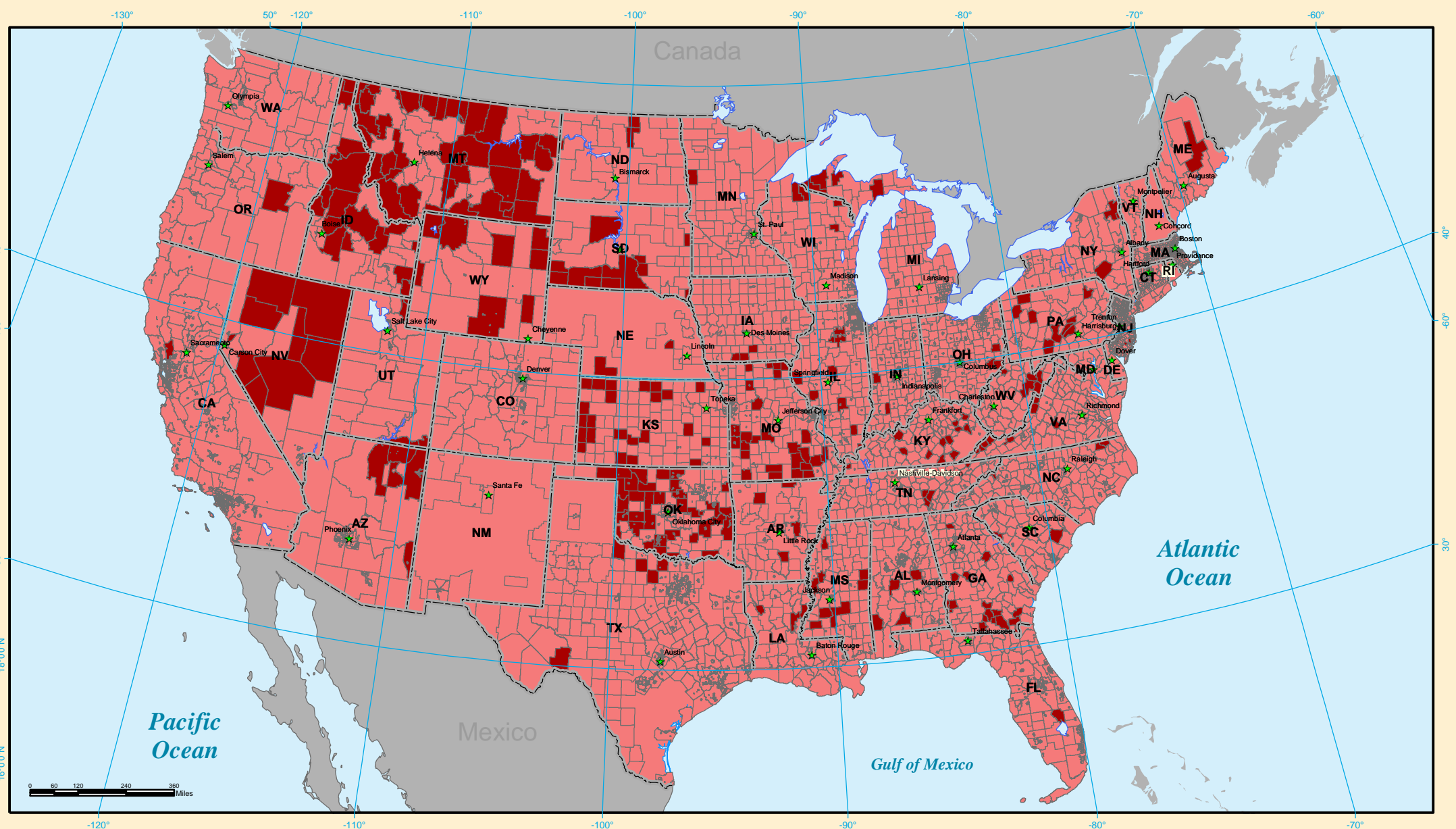


Puerto Rico



Legend

- Basic PSAPs
- Other PSAPs
- Capital Cities
- Lakes



Basic PSAPs

Albers Projection

Central Meridian: -96
1st Std Parallel: 20
2nd Std Parallel: 60
Latitude of Origin: 40

intrado®

Intrado
WOS GIS Operations
November 2005
Data Source: Geode, Meridian, ESRI Data
Created in ArcGIS 8 using ArcMap